

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

DARIO RUIZ,

Plaintiff,

v.

USA TRUCK, INC., et al.

Defendant.

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**CIVIL ACTION NO. 1:15-cv-00359
JURY**

**DEFENDANTS USA TRUCK, INC. AND RONALD SAMARO'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 and Local Rule CV-81, Defendants USA Truck, Inc. ("USA Truck") and Ronald Samaro ("Samaro") (collectively "Defendants") hereby remove to this Court the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

A. THE REMOVED CASE

1. The removed case is a civil action filed with the 75th Judicial District Court of Liberty County, Texas, on July 16, 2015, styled *Dario Ruiz v. USA Truck, Inc., et al.*, Cause No. CV1509664. The case arises out of a motor vehicle accident that Plaintiff alleges occurred on October 26, 2014 in Cleveland, Texas.

B. DOCUMENTS FROM REMOVED ACTION

2. Pursuant to Local Rule CV-81, Defendant attaches the following documents to this Notice of Removal:

- (a) A list of all parties in the case, their party type and current status;
- (b) A civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counter-claims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);
- (c) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her;
- (d) A record of which parties have requested trial by jury; and
- (e) The name and address of the court from which the case is being removed

These documents are attached to this Notice of Removal as ***Exhibit A***.

C. REMOVAL IS TIMELY

3. Plaintiff, Dario Ruiz ("Plaintiff" or "Ruiz"), filed the present civil suit against Defendants, in the 75th Judicial District Court of Liberty County, Texas, on July 16, 2015. Defendant USA Truck was served with Plaintiff's Original Petition ("the Original Petition") on August 20, 2015. In the Original Petition, Plaintiff asserts negligence-based causes of action and claims for personal injury damages against Defendants.

4. Defendants have filed this Notice of Removal within thirty days after receiving papers indicating that the present lawsuit was filed in the Liberty County court, and subsequently became removable to the United States District Court for the Eastern District of Texas. Defendants, therefore, contend that this removal is timely made.¹

D. VENUE IS PROPER

5. The United States District Court for the Eastern District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the

¹ See, 28 U.S.C. § 1446(b)(3).

75th Judicial District Court of Liberty County, Texas, is located within the jurisdiction of the United States District Court for the Eastern District of Texas.

E. DIVERSITY OF CITIZENSHIP EXISTS

6. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

7. As admitted in the Original Petition, Plaintiff resides in Polk County, Texas.²

8. USA Truck, Inc. is a foreign corporation formed under the laws of the State of Delaware. USA Truck's primary place of business is in the State of Arkansas. Pursuant to 28 U.S.C. § 1332(c)(1), USA Truck, Inc. is not a citizen of the State of Texas.

9. Samaro is an individual residing in the State of California, as admitted in Plaintiff's Original Petition.³

10. Because Plaintiff is a resident of the State of Texas and Defendants are not, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

F. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

11. In the Petition, Plaintiff specifically pleads that he "seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00."⁴

12. Based on the aforementioned facts, the current state court action may be removed to the United States District Court for the Eastern District of Texas, Beaumont Division, by Defendants in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Eastern

² See, "Plaintiff's Original Petition," at p. 1, a true and correct copy of which is produced herein.

³ *Id.* at p. 2.

⁴ *Id.* at p. 1.

District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy will exceed \$75,000, exclusive of interest and costs.

G. FILING OF REMOVAL PAPERS

15. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 75th Judicial District Court of Liberty County, Texas, in which this action was originally commenced.

H. CONCLUSION

16. Defendant hereby removes the above-captioned action from the 75th Judicial District Court of Liberty County, Texas, and requests that further proceedings be conducted in the United States District Court for the Eastern District of Texas, Beaumont Division, as provided by law.

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN PC

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**ATTORNEYS FOR DEFENDANTS
USA TRUCK, INC. AND
RONALD SAMARO**

CERTIFICATE OF SERVICE

This is to certify that on this the 18th day of September 2015, a true and correct copy of the foregoing instrument is being served on all counsel of record, as follows:

**VIA E-SERVE AND CERTIFIED MAIL,
RETURN RECEIPT REQUESTED**

James B. Manley
James B. Manley, P.c.
200 William Barnett
Cleveland, Texas 77327

/s/ Brian J. Fisher
Brian J. Fisher